

The CASE of William Grene, the Appellant,

A G A I N S T

JOHANNA GRENE, Widow, (his Mother-in-Law) and others, } Respondents.

July 22 and 23. 1674.

JOHAN GRENE (the Appellant's late Father) in Consideration of Elizabeth (the Appellant's late Mother) who was eldest Daughter of Sir William Middleton, and Grandaughter to Sir Hugh Middleton, who first brought the New-River Water to London, her Marriage Portion of 5000*l.* and in lieu of her former Marriage-Settlement (by her consented to be destroyed on his Misfortunes, to pay off his great Debts) and he having been, thro' her and her Relations Means, made Clerk to the New-River Water Company, whereby he acquir'd an Estate of above 1000*l.* per Ann. did settle his 4 Parts or Shares (part thereof) of the New-River Water-Works now in question of about 600*l.* per Ann. (*inter alia*) to the use of himself for Life, Remainder to Sir William Dolben (afterwards Judge Dolben) in fee in Trust to permit the Appellant, and his Sisters Elizabeth and Katharine, and the Heirs of their Bodies, to receive 60*l.* per Ann. apiece, for ever, out of the Profits of the Premises; and if any of them died without Issue, that 60*l.* per Ann. to go to the Survivors and the Heirs of their Bodies; and further in Trust that such Person as Appellants farther by Deed or Will should appoint, should receive 60*l.* per Ann. out of the said Profits; and that the Appellant's then eldest Brother, Giles, for his Life, should receive the Remainder of those Profits, with Remainder to his the said Giles's 1st, 2d, and other Sons in general Tail, Remainder to his Daughters in like Tail, Remainder, with like Limitations, to the Appellant and his Issue Male and Female, Remainder as to a Moity of such Profits to the Appellant's said Sister Elizabeth, and the other Moity to his said Sister Katharine, with Limitations to their Issue Male and Female, Remainder to the said Sir Hugh Middleton in fee, with a Proviso, That if the Appellant's said Sisters, Elizabeth and Katharine, should be married in their said Father's Lifetime, and should receive of him a Portion of 1000*l.* Value, then their said several 60*l.* per Ann. should cease.

The Appellant's said Father having intermarried with the Respondent Johanna Grene, his 2d Wife, who was his Servant, and with whom he had little or no Portion, and having by her Four Children, he

1st. Attempted to break into the said Settlement, to the Disinheriton of the Appellant and his Issue, and his said Sisters; and the said Sir Hugh Middleton, by proposing a new Settlement to be executed by the said Sir William Dolben to one Roger Gillingham and Thomas Darwyn to that purpose; and to induce the said Sir William so to do, he first executed the same; but the said Sir William refusing to execute such new-propos'd Settlement, as being contrary to the said Settlement of 1674. and for that the now Appellant was then an Infant.

That thereupon, the Appellant's said Father, and when the now Appellant was an Infant, unduly obtain'd a Decree in Chancery, as by Consent, for the delivering up the said Settlement of 1674. to be cancell'd (a thing unprecedented as advisd) and for the Creation or making of a new Settlement, in Disinheriton of the Appellant and his Issue, and the said other Remainders over; and so careful was he in drawing up that Decree, in order to stifle the said Settlement of 1674. so as that the Consideration thereof is not so much as taken notice of therein, but for that the now Appellant was an Infant at the time of the pronouncing or making such Decree, the Lord-Chancellor Cowper, on hearing his Cause, Novemb. 11. 1709. reliev'd him against the same.

"That the now Appellant's said Father, the better to effect his Designs, sent the Appellant, when he was about 18 Years old, into the Army in Ireland, where he continued most of those Wars, and being kept ignorant of his Interest in, or the Value of the said four Shares, which then were, and now are about 600*l.* per Ann. clear of all Taxes and Reprizes; and on this Appellant's returning into England, and his said eldest Brother, Giles, having been married about 9 Years, and never having had any Issue, nor likely to have any, but declining in his Health, and he, the now Appellant, being about the Age of 23.

"His said Father caus'd Articles of Agreement, and a Deed of July 5. following, to be ready drawn and engross'd, without his Privy or Consent, for him to depart, with his whole, then present and future Interest in his said 60*l.* per Ann. for ever, and the said 4 Shares for his Life, for a bare Annuity only of 100*l.* a Year for his Life, and as in Consideration of 50*l.* as then paid down, (and sent for him about 10 Miles to execute the same;) and the more easily to prevail on him so to do, he then told the now Appellant, That the said Writings were not intended to do him any Injury, or prejudice his Right, and that the now Appellant was, and still should be his Son; but that the Writings were intended only to keep him out of Sharps Hands, that they should not put upon him; whereby the Appellant being under the Power and Awe of his said Father, was persuaded to seal and execute the same; and his said Father then executed a Grant of the said Annuity of 100*l.* per Ann. and a Bond of 1000*l.* Penalty for Performance thereof; but never paid One Farthing of the said 50*l.* Consideration-Money; and such Annuity-Grant was so made to Trustees as that the now Appellant could not receive One Farthing thereof without their Consent; and such Grant and Bond, Article, and Deeds were executed all at one time, tho' of different Dates, and were always kept by the now Appellant's said Father in his Custody; so that the now Appellant, or his Trustees, had not any Remedy at Law for the Recovery of such Annuity; and yet the said Lord-Chancellor Cowper did not relieve the now Appellant, against his said Articles and Deed, but dismiss'd his Bill in that respect (without Prejudice to his Issue.)

The now Appellant's said Father, after the Decease of the said Giles without Issue, did attempt the getting an Act of Parliament, for the Benefit of his said second Wife and her Children, in Disinheriton of the now Appellant; and, for that Purpose, did bring in a Bill into this most Honourable House of Lords, without mentioning the said Decree in 1685, or the said Settlement in 1674. Whereupon, and the now Appellant's Right and Title appearing to the then Lords Committees, the said Bill was in Displeasure rejected.

The now Appellant's said Father also endeavour'd to prevail with him to execute another Deed, and levy a Fine of the Premises, thereby utterly to deprive himself of his Inheritance therein; which he refusing to do, his said Father was very angry with him, and to keep him in Awe, and from suing for his Right, pretended to have an Assignment of a Counterbond of 2000*l.* Penalty, which the now Appellant, with his said eldest Brother, Giles, had so long ago as December 9, 1693. enter'd into to one Col. Soames, to indemnify him from a Bond which he had enter'd into, with the said Giles, to John Baptist Peters, for 500*l.* (and also endeavour'd to prevail with the Appellant, to give his own Bond for that Money) when, in Truth, the now Appellant's said Father had paid off that Money for his said Son Giles, in his Life-time, in 1696. and on his Account; nor was the said Soames, the Surety, ever dampnify'd; nor was such pretended Assignment, of such Counterbond or original Bond, obtain'd until about a Year after such original Bond was so, as aforesaid, actually paid off by the now Appellant's said Father, and his said eldest Son Giles was dead insolvent; nor was the Appellant bound in such original Bond, nor had one Farthing of the Money lent thereon, and yet the now Appellant's said Father, by his Will, dated January 27, 1702. has taken on himself expressly to devise or bequeath such Counterbond to the now Respondent, Johanna Grene, his Relict, who, to render the now Appellant unable to prosecute his said Suit in Chancery, with Effect, against her, did, in Trinity-Vacation, 1708. cause him to be arrested on that Counterbond, and, for Want of 4000*l.* Bail, forc'd him to be sent to the Fleet, where he remain'd an actual Prisoner for several Weeks together, until releas'd by the Court of Chancery, on his giving Judgment thereon, with a Release of Errors, subject to the Order on hearing; and altho, on such Hearing, the said Lord Chancellor Cowper reliev'd the now Appellant, against such Counterbond and Judgment, yet he gave him no Costs and Damages against her, for her obstinate Defence, by her Answer, insisting on the Justness of such her Demand and Procedure, or for such her oppressive and hard Usage of him.

That the now Appellant's said Father, in his Life-time, paid off his said Daughters Portions, and so the same were to cease from being any Incumbrance on the said four Shares, now in Question; and yet he has, by his said Will, taken upon himself to devise the same, as well as the said four Shares, to the said now Respondent, Johanna Grene, his Relict, sole Executor, and residuary Legatee; all to load the now Appellant.

That the now Appellant's said Father, in his Life-time, and since his Decease the said Respondent, Johanna Grene, (his Mother-in-Law) by reason of his not complying with their said unreasonable Demands, and to incapacitate him to sue for his Right, did, of the said 100*l.* per Ann. Annuity, for some Years together, stop 20*l.* per Ann. as for Queen's Taxes, when, on the said Hearing, the said Lord Chancellor decreed the same to be Tax-free, and she to refund to the now Appellant 145*l.* so stop; and yet the now Appellant had no Interest or Costs given him for the Moneys so stop.

Wherefore, and for that the now Appellant's said eldest Brother, Giles, and Mary, his Wife, are both dead without Issue, and his said Father dy'd March 29, 1705. and for divers other Reasons, he, the now Appellant, humbly hopes your Lordships will be pleas'd to reverse the said Decree, and relieve the Appellant in the Points complain'd of, and to set aside his said pretended Articles and Deed, in 1694, and to order and decree that he may forthwith be let into the Possession of the said four Parts or Shares of the said New-River-Water-works, now in Question; and that the said Respondents may respectively come to a just and fair Account with him, for the mean Profits thereof, at least from the Death of his said Father, and may forthwith pay him what shall, on the Balance of such Account, appear to be respectively due from them to him, with his Costs and Damages, as well in his said Suit in Chancery, and in this most Honourable Court, as for her, the said Respondent, Johanna Grene's said Vexations, Prosecution, and Imprisonment of him, as aforesaid; or, otherwise, to relieve him, the now Appellant, in the Premises, according to your Lordships great Wisdom and Justice.

William Whitelocke.

James Dermer.

Married a Second Wife,
June 22. 1675.

Settlement,
August 10 and 11. 1682.

Decree, April 10. 1685.

New Settlement, Sept. 8.
and 9. 1685.

Articles, June 29. 1694.
Deed, July 5. 1694. in
pursuance of the Articles.

John Grene's Grant and
Bond, July 5. 1694. for
Performance.

Act of Parliament,
Decemb. 13. 1697.

Last Settlement,
October 11 and 12. 1699.

Assignment, May 13. 1697.
of Counterbond.

Giles died, June 22.
1696.

Mary Grene died, Aug. 10.
1710.